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11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 FOR THE COUNTY OF ORANGE — CENTRAL JUSTICE CENTER
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15 **Ivana Unger,**

16 Petitioner,

17 vs.

18 **Bob Page,** in his official capacity as Orange
19 County Registrar of Voters, and
20 DOES 1 through 25, inclusive,

21 Respondents.

22 **Vicente Sarmiento,**

23 Real Party in Interest.
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STATUTORY PRIORITY

Election Law Matter:

Priority Over All Civil Matters

CCP § 35; Elec. Code § 13314(a)(3)

Case No.: 30-2022-01250784-CU-WM-CJC

Verified Petition for Writ of Mandate

[Elec. Code §§ 13313, 13314]

1 **TO THE HONORABLE JUDGES OF THE SUPERIOR COURT:**

2 Petitioner Ivana Unger, by this Verified Petition, petitions this court for a Writ of
3 Mandate and alleges as follows:

4 1. This action is brought in the public interest to enforce legal requirements applicable to
5 candidate's statements that are published in the official voter information guide. The issue here is
6 a portion of Vincente Sarmiento's candidate's statement that includes his political party
7 affiliation, something prohibited in nonpartisan races. Petitioner brings this case in the public
8 interest to ensure that Sarmiento's candidate's statement complies with state law.

9 **PARTIES**

10 2. Petitioner **IVANA UNGER**, an individual, is a voter and elector in Orange County's
11 second supervisorial district.

12 3. Respondent **BOB PAGE** ("REGISTRAR OF VOTERS" or "REGISTRAR") is, and at
13 all relevant times mentioned in this Petition, was the Registrar of Voters for the County of
14 Orange. In that capacity, he is charged by law with administering county elections and is
15 responsible for printing and mailing the voter information guide at issue in this petition. The
16 Registrar is sued in his official capacity. Under subdivision (b)(3) of Elections Code section 13313,
17 the Registrar must be named as a respondent in this matter

18 4. The true names of Respondent DOES 1 through 25, inclusive, are unknown to Petitioner,
19 who therefore brings this action against DOES 1 through 25, inclusive, by such fictitious names
20 and will seek leave of this Petition to show their true names, identities, and capacities when they
21 have been ascertained.

22 5. Real Party in Interest **VICENTE SARMIENTO** is the Mayor of Santa Ana and candidate
23 for Orange County Board of Supervisors, 2nd District. The candidate's statement Sarmiento
24 submitted in connection with this campaign is at issue in this case. Under subdivision (b)(3) of
25 Elections Code section 13313, Sarmiento must be named as a real party in interest in this matter
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1 Mayor Sarmiento’s campaign” (Exh. A.) This also describes Sarmiento’s membership in a
2 partisan political organization.

3 13. Petitioner proposes that Sarmiento’s candidate’s statement be modified as follows (with
4 deleted language in ~~strikethrough~~):

5 Please join the ~~Democratic Party of Orange County~~, the Orange County Labor
6 Federation, United States Senator Alex Padilla, and elected officials,
7 organizations, and residents in supporting Mayor Sarmiento’s campaign for a
8 brighter and more prosperous future for all in Orange County.
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10 14. Counsel for the Registrar has asserted that the Registrar can comply with any order from
11 this Court affecting the ballot so long as the order is issued prior to 5:00 p.m. on April 1, 2022
12 without an interference in the conduct of the election or the printing and distribution of elections
13 materials. However, Petitioner is informed and believes that this reflects the Registrar’s
14 preference and that he could comply with orders issued a short while later. Nonetheless, because
15 this matter is entitled to priority (see Code Civ. Proc. § 35; Elec. Code § 13314) and involves a
16 rather simple question, this Court can issue appropriate orders on or prior to April 1.

17 **A. First Cause of Action: Elec. Code § 13313.**

18 15. Petitioner realleges and incorporates by reference paragraphs 1 through 13, above.

19 16. Each candidates’ statement is remains confidential until the filing deadline passes. Then
20 it is public for a 10-day public review period. (Elec. Code § 13313, subd. (a).)

21 17. During that 10-day period, “any voter of the jurisdiction in which the election is being
22 held ... may seek a writ of mandate or an injunction requiring any or all of the material in the
23 candidates statements to be amended or deleted.” (Elec. Code § 13313, subd. (b).)

24 18. “A peremptory writ of mandate or an injunction shall issue only upon clear and
25 convincing proof that the material in question is false, misleading, or inconsistent with the
26 requirements of this chapter, and that issuance of the writ or injunction will not substantially
27 interfere with the printing or distribution of official election materials as provided by law.”
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1 19. The filing deadline for this office was March 11, 2022. The 10-day public review period
2 ends on March 21, 2022. This action is timely filed during that 10-day period.

3 20. As set forth above, Sarmiento’s candidate’s statement is inconsistent with the Elections
4 Code, and this Court can order changes to the voter information guide without interfering with
5 the printing and distribution of official elections materials.

6 21. A writ of mandate should issue to remove Sarmiento’s inclusion of his political party
7 membership in his candidate’s statement.

8 **B. Second Cause of Action: Elec. Code § 13314.**

9 22. Petitioner realleges and incorporates by reference paragraphs 1 through 13, above.

10 23. The first cause of action, section 13313 is specific to candidate’s statements. This cause of
11 action overlaps, as it applies to anything related to the election. Under this section, “[a]n elector
12 may seek a writ of mandate alleging that an error or omission has occurred, or is about to occur, in
13 the placing of a name on, or in the printing of, a ballot, county voter information guide, state voter
14 information guide, or other official matter, or that any neglect of duty has occurred, or is about to
15 occur.” (Elec. Code § 13314, subd. (a)(1).)

16 24. “ A peremptory writ of mandate shall issue only upon proof of both of the following: [¶]
17 (A) That the error, omission, or neglect is in violation of this code or the Constitution” or “(B)
18 That issuance of the writ will not substantially interfere with the conduct of the election.” (Elec.
19 Code § 13314, subd. (a)(2).)

20 25. Petitioner is an elector in the Second Supervisorial District.

21 26. Printing and distributing Sarmiento’s candidate’s statement, with his unlawful reference
22 to his membership in the Democratic Party, is an error that is about to occur in the printing of the
23 county voter information guide. That error is in violation of the California Elections Code.

24 27. Issuing a writ of mandate to prevent that error will not interfere in the conduct of the
25 election.
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1 28. A writ of mandate should issue to remove Sarmiento's inclusion of his political party
2 membership in his candidate's statement.


3 **PRAYER FOR RELIEF**

4 Wherefore, Petitioner prays that the Court:

- 5 1. Issue an Alternative and/or Peremptory Writ of Mandate commanding
6 Respondent to modify or delete Sarmiento's candidate's statement to correct the violations,
7 as set forth above, or alternatively, order the injunctive relief necessary to obtain the same
8 outcome;
- 9 2. Award Petitioner his attorneys' fees and costs reasonably incurred herein; and
10 3. For such other and further relief as the Court deems proper.
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13 DATE: March 17, 2022

Respectfully Submitted,
LAW OFFICE OF CHAD D. MORGAN


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15 By: 
16 Chad D. Morgan Esq.
17 Attorney for Petitioner,
18 Ivana Unger
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VERIFICATION

1 I, Chad Morgan, declare that I am Petitioner’s counsel in the above-entitled action. I have
2 read the foregoing **Verified Petition for Writ of Mandate** and know the contents thereof to be
3 true to my own knowledge, except as to those statements made upon information and belief, and
4 as to them, I believe them to be true. I make this declaration on Petitioner’s behalf because my
5 office is absent from the county in which Petition is located.
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7
8 I declare under penalty of perjury under the laws of the State of California that the
9 foregoing is true and correct.

10 Executed on March 17, 2022.
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14 By: _____
15 Chad Morgan
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**EXHIBIT
A**

VICENTE SARMIENTO

Santa Ana Mayor/Businessowner

Mayor Vicente Sarmiento has the values, experience, and vision to be our next Orange County Supervisor. He will work to improve the quality of life for all residents. Vicente was raised in central Orange County, attended local public schools, and returned to his hometown, Santa Ana, to start a business and raise his family after college. As a father, Mayor Sarmiento believes everyone deserves to feel safe in their neighborhoods.

Mayor Sarmiento has implemented strategies that keep our schools, parks, and sidewalks safe, while getting people experiencing homelessness the mental health services they need.

As a Councilmember, Vicente led Orange County's second biggest city through the great recession, while protecting homeowners and local businesses. As Mayor, he balanced the city's budget, increased the fiscal reserve, and created a one-time surplus of approximately \$42 million. Most importantly, Santa Ana now has some of the lowest rates of Covid-19 positivity in the entire County, after having been the most impacted.

As Supervisor, Vicente will make affordable housing and the rising cost of living a priority. At a time when many are struggling to pay their bills, Mayor Sarmiento led the COVID economic recovery, helping small businesses and renters get the support they needed, and secured hazard/hero pay for our essential frontline workers.

Vicente will always stand with working families because people deserve a paycheck they can raise a family on, and a safe workplace. As Mayor, Vicente also created a universal legal defense fund to help families stay together.

As Supervisor, Vicente will usher in a fresh start for Orange County by delivering on the issues most important to residents, including:

- Tackling Homelessness
- Protecting Our Neighborhoods
- Increasing Affordable Housing
- Improving Public Health Care
- Expanding Our Parks & Green Space
- Increasing Government Transparency and Accountability

Mayor Sarmiento earned a BA in Economics from UC Berkeley, and his law degree from UCLA. He proudly returned home to Santa Ana with his wife Eva to raise their three kids & dog "Magic", start his own Santa Ana-based law practice, and enter public service to improve his hometown.

Please join the Democratic Party of Orange County, the Orange County Labor Federation, United States Senator Alex Padilla, and elected officials, organizations, and residents in supporting Mayor Sarmiento's campaign for a brighter and more prosperous future for all in Orange County.

www.sarmientoforsupervisor.com

Vicente Sarmiento